

UTAH RADIATION CONTROL BOARD

MINUTES OF THE UTAH RADIATION CONTROL BOARD MEETING, January 3, 2003, Department of Environmental Quality (Bldg. #2), Conf. Room 101, 168 North 1950 West, Salt Lake City, Utah.

BOARD MEMBERS PRESENT

Stephen T. Nelson, Ph.D., Chairman
Gary L. Edwards, M.S., Vice Chairman
William J. Sinclair, M.S.E.H., Executive Secretary
Kent J. Bradford, P.G.
Thomas K. Chism, M.S.
Royal I. Hansen, J.D.
Rod O. Julander, Ph.D.
Linda M. Kruse, M.S.
Karen S. Langley, M.S.
Dianne R. Nielson, Ph.D., Exec.Dir. of DEQ
Gregory G. Oman, D.D.S., B.S.
Robert S. Pattison, B.Sc.
John W. Thomson, M.D.
Gene D. White, Commissioner

BOARD MEMBERS ABSENT/EXCUSED

(None)

DRC STAFF/OTHER DEQ MEMBERS PRESENT

Jule Fausto, DRC Staff
Dane Finerfrock, DRC Staff
Craig Jones, DRC Staff
Fred Nelson, Attorney General's Office
Yoli Shropshire, DRC Staff

PUBLIC

Kenneth L. Alkema, Envirocare of Utah, Inc.
Robert Baird, URS
Val Bateman, Utah Medical Association
Michelle R. Rehmann, IUC (USA)

GREETINGS/MEETING CALLED TO ORDER

The Utah Radiation Control Board convened in the DEQ Building #2, Room 101, 168 North 1950 West, in Salt Lake City, Utah. The meeting was called to order at 2:05 p.m. by Dr. Stephen Nelson, Chairman of the Board. Dr. Nelson welcomed all members and public attending the meeting. Dr. Nelson stated to those present, if they wished to address any items on the agenda to indicate it on the public sheet as they signed in. Those desiring to comment would be given a chance to address their concerns prior to the end of the Board meeting.

Introduction of New Board Member:

Stephen Nelson also welcomed a new member, Robert S. Pattison from Moab, to the Board. Mr. Pattison introduced himself. He stated that he was born and educated in England. He worked for English Steel Corporation and engineering firms there. His family and himself immigrated to Africa where he worked as an engineer and supervisor for Anglo American Corporation. The next stop was immigration to Canada where he worked for Noranda Mines in B.C. and Whitehorse Copper in the Yukon Territory. In 1974, he came to the United States when he was hired by Rio Algom to work at their Lisbon Valley uranium mine and mill in southeastern Utah. He was with Rio Algom for 18 years and has experience with most aspects of uranium recovery operations. He has many years of experience working with NRC and complying with their rules and regulations. Also, during this period, he served as the general manager of the Lisbon operation. After Lisbon ceased operations at the end of 1988, he was involved in decommissioning of the site. Since then, he has practiced as a consultant in the business and has done consulting work in other states such as Colorado, New York and Pennsylvania, and in France. He has had much practical experience in dealing with the uranium mills and with their reclamation. He indicated he was looking forward to helping the Board with these matters.

I. APPROVAL OF MINUTES (Board action item)

a. Approval of December 6, 2002 Minutes

Stephen Nelson asked Board members for any corrections to the minutes.

Linda Kruse proposed the following changes to the minutes:

1. Page 2, Item I., b., under subtitle, "Introduction of New Board Member", third sentence, which reads: "... **Royal and Draper.**" Change to read: "... **Moyle and Draper.**"
2. Page 6, Item IV. a., vote tally at bottom of the page, which reads: "**Rod Julander – Yes**" (Rod Julander did not attend the meeting.) Change to read: "**Dianne Nielson – Yes**"
3. Page 13, Item VII. under subtitle, "Public Comment, first sentence which reads: "The **follow** . . ." Change to read: " The **following.** . . "

Robert Pattison proposed the following changes to the minutes:

4. Page 9, Item VI. a., under table, "Moab Uranium Mill Tailings Project, Near Moab, Utah, November 19, 2002, which reads: "January, 2003 – **public scooping** meetings." Change to read: "... **public scoping**"
5. Page 9, Item VI. a., December 4, 2002, which reads: "DOE provides tentative schedule for **public scooping** meetings . . ." Change to read: "**public scoping**"

Greg Oman proposed the following changes to the Minutes:

6. Page 5, Item IV. a., paragraph 4, third sentence, which reads: "... authorizing tests involving **x-rayss** . . ." Change to read: "... **x-rays**"

Karen Langley proposed the following changes to the Minutes:

7. Page 11, Item VI. d., under subtitle, "The DOE NEWS," paragraph one, first sentence, which reads: "... for the Moab Project, **formally know** as . . ." Change to read: "... **formerly known**"

Karen Langley made a motion to approve the minutes of December 6, 2002, as amended, seconded by Kent Bradford.

CARRIED AND APPROVED UNANIMOUSLY

II. RULES (Board action item)

- a. **Proposed changes to R313-25-1, "Purpose and Scope" and R313-25-3, "Siting Criteria and Pre-licensing Plan Approval for Commercial Radioactive Waste Disposal Facilities**

Bill Sinclair reported that on November 19, 2002, following the hearing on Envirocare's license to accept containerized Class A, B, and C low-level radioactive waste, the Board directed the Executive Secretary to examine rule R313-25-3 and propose changes as needed. DRC Staff met with management staff of the Division of Solid and Hazardous Waste (DSHW) to make them aware of proposed changes to the siting criteria for commercial facilities since DSHW also has siting criteria requirements for commercial hazardous waste facilities. Many of the criteria are identical for commercial hazardous and radioactive waste facilities. A copy of the proposed rule is included in the packet.

Bill Sinclair then referred Board members to a copy of proposed changes to R313-25-1 and 3 that were included in the packet. He indicated that the following changes were proposed to the current rules:

Page 1 of the proposed rules in the packet

R313-25-1, Purpose and Scope - it is proposed in sentence one that a technical correction occur to properly designate the "Executive Secretary" instead of the "Department" as the one to issue land disposal licenses.

Page 2 of the proposed rules in the packet

R313-25-3. Siting Criteria and Pre-Licensing Plan Approval Criteria for Commercial Radioactive Waste Disposal Facilities

R313-25-3 - It is recommended that the title of this section be changed to Pre-Licensing Plan Approval Criteria for Siting of Commercial Radioactive Waste Disposal Facilities.

R313-25-3(1) - It is recommended that the reference to Section 19-3-105 be deleted at the end of the second sentence. This is an incorrect reference to a statutory provision not a rulemaking provision.

R313-25-3(a)(ix)(x)(xi) - It is recommended that the words "distant from" be included in these references to provide clarification.

R313-25-3 (a)(xi) - This requirement was deleted; the purpose of this requirement was unknown.

R313-25-3 (a)(xiii) - This requirement was clarified to reflect the current name: "Utah Drinking Water Board."

R313-25-3(b)(iii) - This sentence was modified to make it more inclusive by defining extensive withdrawal to include not only water, but mineral and energy resources as well.

Page 3 of the proposed rules in the packet

R313-25-4 - This was deleted in its entirety because it is applicable to hazardous waste facilities, specifically incinerators (included in the commercial hazardous waste siting criteria). This was brought over to the commercial radioactive waste facility criteria later and it is not applicable.

R313-25-5 (now R313-25-4) - This was modified to reflect that the groundwater requirement is applicable to land disposal facilities and makes it consistent with the criteria for commercial hazardous waste land disposal facilities.

R313-25-6 (now R313-25-5) - This requirement was clarified to ensure the applicant understands to address this information in the siting plan application.

R313-25-8 - This requirement was deleted because it is a regulatory requirement that can be imposed during operation; not an item to be evaluated during a siting process.

R313-25-9(a) [now R313-25-7(a)] - This section has been modified to require that the siting application have written evidence that the applicant has coordinated on-site emergency response plans with the local emergency planning committee (LEPC).

R313-25-9(b) [now R313-25-7(b)] - This requirement was modified to clarify that a comprehensive plan is needed to respond to emergencies at the site. It removes the requirement for a plan to coordinate transport of waste within the State that is not the applicant's responsibility.

R313-25-9(c) [now R313-25-7(c)] - This section was modified to still require submission of proposed routes of transport and address the transportation routes available to evacuate the population at risk in the event of on-site accidents, including spills and fires. Several requirements were removed relating to addressing specifics of the routes of transportation.

R313-25-10 (now R313-25-8) - This was renumbered.

Bill then recommended that the Board approve changes to R313-25-1 and R313-25-3 to be filed with the Division of Administrative Rules by January 15, 2003, and to give notice to the public for a 30-day public comment period that would end on February 15, 2003.

Discussion by Board Members

There was concern expressed by several Board members regarding not having information available prior to the March 6, 2003 meeting relating to transportation of radioactive waste and coordination of such within the State of Utah. This might result in the perception that the Board would be criticized for reducing the requirements of the transportation of radioactive waste through some of the recommended changes to the siting criteria rules. The Division is trying to make it clear that there are responsibilities that other agencies assume, such as weight restrictions on a bridge by the Department of Transportation. The Division also wants to make it clear that off-site emergency response is the responsibility of the shipper/transporter and not Envirocare.

Additionally, Board members thought it might make sense to hold off on taking this rule out for public comment until after the transportation background discussion at the March Board meeting. This might generate more effective input because the public is given the opportunity to hear the transportation background discussion prior to the rule going out for public comment. The Board decided that the best course of action was for the rulemaking to be tabled until the March Board Meeting.

Rod Julander made a motion that the Board accept the changes to R313-25-1 and R313-25-3, as recommended by the Executive Secretary and the rule go out for public comment, but that the rulemaking action be tabled until the Board is informed regarding transportation issues at the March Board meeting to include any additions as necessary; seconded by Karen S. Langley. The Board Members voted as follows:

Stephen T. Nelson, Chairman – Yes
Gary L. Edwards, Vice Chairman – Yes
Kent J. Bradford - Yes
Thomas K. Chism - Yes
Royal I. Hansen - Yes
Rod O. Julander - Yes
Linda M. Kruse - Yes
Karen S. Langley - Yes
Dianne R. Nielson - Yes
Gregory G. Oman - Yes
Robert S. Pattison - Yes
John W. Thomson – Yes
Gene D. White - Yes

CARRIED AND APPROVED UNANIMOUSLY

III. RADIOACTIVE MATERIALS LICENSING/INSPECTION

No items

IV. X-RAY REGISTRATION/INSPECTION

No items

V. RADIOACTIVE WASTE DISPOSAL (Board action items)

a. Generator Site Access Permit Enforcement Policy – for Board approval

Bill Sinclair indicated that on June 26, 2002, a draft Generator Site Access Permit Enforcement Policy was prepared for Stakeholder comment. The reasons for development of the policy were:

- Policy was developed as a result of Stakeholder input
- Original idea was to utilize existing enforcement provisions of Utah Radiation Control rules
- Borrowed the idea from the State of Washington regarding a "point system"
- Wanted broad Stakeholder input into the policy from those who have to meet the transportation requirements
- Established four levels of enforcement on an escalating scale - deficiency letter, Notice of Violation, Suspension (temporary), Revocation (permanent) based on the Point Value Assessment Table of Frequency Cited Violations
- Enforcement actions to date have been quickly resolved

The draft of the initial draft enforcement policy was distributed to all generator site access permit holders and Envirocare and made publicly available on the DRC website. The Board was briefed on this effort at the June 7, 2002 Board meeting. Public comment was received until August 15, 2002. As a result of the public comment, the Division received 17 response letters representing 25 responders since 8 responded through Envirocare. The 100 comments were evaluated and a response to comments document was prepared in November 2002, and changes made to the draft policy as a result of the comments. An update on the comments and the status of the policy was also provided to the Board at the September 6, 2002 meeting.

On November 21, 2002, an all-day joint workshop sponsored by Envirocare and the Division was held in Conference Room 101 of DEQ Building #2. Approximately 40 generators were represented at the meeting. The Division discussed the draft policy and the background, provided those in attendance with a preview of changes that were to be made as a result of public comment, and took additional comments and suggestions from those in attendance regarding the policy. Several excellent suggestions were captured on flip charts, and the Stakeholders provided a presentation of further suggestions.

As a result, the Division has now evaluated all comments from both the public comment period and the joint workshop and has finalized the policy. Many of the comments received at the joint workshop were either incorporated into the final document or will be included in the "frequently asked questions" section of the DRC website relating to generator site access permits. A copy of the finalized policy was provided in the Board packet.

Bill then recommended that the Board give final approval to the policy and set the effective date as January 10, 2003.

Following some discussion among Board members, Greg Oman made a motion to approve the policy, effective January 10, 2003; seconded by Kent Bradford.

The Board Members voted as follows:

Stephen T. Nelson, Chairman – Yes
Gary L. Edwards, Vice Chairman – Yes
Kent J. Bradford - Yes
Thomas K. Chism - Yes
Royal I. Hansen - Yes
Rod O. Julander - Yes
Linda M. Kruse - Yes
Karen S. Langley - Yes
Dianne R. Nielson - Yes
Gregory G. Oman - Yes
Robert S. Pattison - Yes
John W. Thomson – Yes
Gene D. White - Yes

CARRIED AND APPROVED UNANIMOUSLY

VI. URANIUM MILL TAILINGS UPDATE (Board information items)

a. Upcoming schedule of Public Scoping meetings – Moab Millsite Environmental Impact Statement

Bill Sinclair pointed out that a "Notice of Intent" was recently published in the Federal Register on December 20, 2002, was accompanied by a Department Of Energy (DOE) press release indicating the commencement of a new Environmental Impact Statement process for the Moab Millsite. Copies of the Notice of Intent and DOE press release were included in the Board packet. Most importantly, Bill wanted to relay the Moab Millsite EIS public scoping meeting schedule to Board members and the public as follows:

January 21, 6:00 p.m.-10:00 p.m. - Green River (City Hall, 240 East Main Street)
January 22, 6:00 p.m. - 10:00 p.m. - Moab (Moab Valley Inn, 711 South Main)
January 23 - three public meetings in Blanding:
9:00 a.m. - 11:00 a.m. - White Mesa Ute Tribe Meeting at White Mesa Ute Recreation Center
2:00 p.m. - 4:00 p.m. - Navajo Nation meeting at College of Eastern Utah Arts and Events Center, 639 W. 100 S., Blanding
6:00 p.m. - 10:00 p.m. - General public meeting at College of Eastern Utah Arts and Events Center, 639 W. 100 S., Blanding
January 28, 6:00 p.m.- 10:00 p.m. - East Carbon (Old City Hall, 200 Park Place)

Bill also indicated that this information had been posted on the Division website.

b. State of Utah as a “cooperating agency” in the Moab Millsite Environmental Impact Statement

Bill Sinclair stated that on November 22, 2002, Governor Leavitt received a letter from the Grand Junction Office of DOE requesting that the State consider being a cooperating agency for the Moab Millsite Project Environmental Impact Statement process. The information provided by the Grand Junction Office was reviewed, and Governor Leavitt sent a letter to DOE on December 18, 2002

indicating the State of Utah's interest in becoming a cooperating agency, contingent on establishing a Memorandum of Agreement.

VII. OTHER DEPARTMENT ISSUES (Board information items)

a. 2003 Legislature preview

Bill Sinclair indicated that the 2003 Utah Legislative Session begins on Monday, January 20, 2002, and ends on Wednesday, March 5, 2002. This is expected to be a busy session for both the Department and the Division. The Board was provided a list of bills filed that could impact the Department/Division as follows:

Tax on Nuclear Shipment - Karen Morgan

Radioactive Waste - Prohibition of B and C Waste - David Hogue

Radioactive Waste Amendments - Curtis Bramble

Prohibition of State Acceptance of B and C Radioactive Waste - Ralph Becker

Hazardous Waste Facilities Management Amendments - Chris Buttars

The Division will not be pursuing any legislation during the session. Bill indicated that he would keep the Board apprised during the session of these and other bills that come forward that could impact the Department/Division.

VII. PUBLIC COMMENT

No one provided public comment during this designated time.

IX. OTHER ISSUES

a. Next Board Meeting – March 7, 2003, Department of Environmental Quality (Bldg #2), 168 N 1950 W, Conference Room 101, Salt Lake City, Utah, 2:00 – 4:00 PM

The Board Meeting adjourned at 3:35 p.m.